IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.198 OF 1994

Gulabbhai A.Mulani & Ors. ...Appellants

Vs.

Shaikh Unus Babulal & Ors. ...Respondents

Mr.T.D.Deshmukh i/b Mr.A.A.Kumbhakoni for the Appellants.
Mr.P.K.Hushing for Respondent No.3

CORAM: A.S.OKA, J.
DATED: JANUARY 20,2005.

P.C.:

1. Heard Counsel appearing for the parties. The challenge is to the decree of the Appellate Court by which the suit filed by the Appellants has been dismissed. The Appellate Court has referred to renunciation deed dated 4-5-1971. The Appellate Court held that by the said deed, there is a transfer as contemplated in the Sanad. The learned Judge of the Appellate Court also held that the Appellants are not entitled to be declared as owners as the successors of Lalubai have violated the conditions in the Sanad. After having considered the provisions of Section 4 of Bombay Hereditary Offices Act, 1874, the Appellate Court held that the Appellants are not entitled to seek declaration of ownership. I find no perversity in the finding recorded by the Appellate Court that the Appellants have failed to prove that they are the owners of the land.

2. In this view of the matter, no fault can be found with the final order passed by the Appellate Court. As the finding on the issue of title by the Appellate Court is correct, I am not considering the submissions made by the learned Counsel for the Appellants on the finding recorded by the Appellate Court on the bar of limitation.

3. Second Appeal is dismissed with no order as to costs.

Judge.